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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues in relation to the second periodic report of Rwanda*

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (see CAT/C/RWA/CO/1, para. 29),[1] the Committee requested the State party to provide follow-up information in response to the Committee's recommendations with regard to: (a) conducting prompt, impartial and effective investigations; (b) prosecuting suspects and sanctioning perpetrators of torture and ill-treatment; (c) providing redress to victims; and (d) guaranteeing fundamental legal safeguards to detainees held in police stations and in secret detention centres; and (e) reducing overcrowding in prisons; as contained in paragraphs 10, 11, 12, 14 and 19 (a) and (b) of the previous concluding observations. The Committee regrets that the State party has not provided the follow-up information requested, in spite of the reminder letter addressed to the State party by the Committee's Rapporteur for follow-up to concluding observations, on 3 June 2013. The Committee considers that the recommendations contained in paragraphs 10, 11, 12, 14 and 19 (a) and (b) of the previous concluding observations have not yet been fully implemented (see paras. 4, 13, 14, 22 and 23 below).

Articles 1 and 4

2. With reference to the Committee's previous concluding observations (see para. 7) and bearing in mind that the penalty for the crime of torture committed by a civil servant would be two years, in accordance with article 177 of the Penal Code of 2012,[2] please clarify whether the State party intends to amend the Penal Code to provide for appropriate penalties for acts of torture, that take into account the grave nature of such acts. Please also clarify whether the State officials who instigate, consent to or acquiesce to acts of torture would be punished for those acts, and with what penalties, and whether persons acting in an official capacity who inflict acts of torture would be punished with the same penalties as public officials.

3. Taking into account that the status of the Convention in the domestic legal order changed following the 2015 amendments to the State party's Constitution, which establishes the supremacy of the Constitution and organic laws over international treaty law,[3] please indicate the measures taken to ensure that domestic law, and in particular organic laws, are consistent with the provisions of the Convention.[4] In the light of the previous concluding observations (para. 8) and the information provided in the State party's

* Adopted by the Committee at its sixtieth session (18 April-12 May 2017).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

[2] CAT/C/RWA/2, paras. 14 and 38.

[3] See CAT/C/RWA/2, para. 13.

[4] See CCPR/C/RWA/CO/4, para. 6.

report,[5] please provide examples of judicial proceedings in which the provisions of the Convention have been invoked by either party or applied by the judiciary.[6]

Article 2[7]

4. Bearing in mind the Committee's previous concluding observations (para. 12) and taking into account the information provided by the State party in its report,[8] please provide information on the measures taken to:

(a) Ensure that the maximum period of time during which a person may be in police custody before being presented to a judge is 48 hours;

(b) Ensure that all persons deprived of their liberty can enjoy, in practice, fundamental legal safeguards from the moment of arrest, in particular: (i) the right to be informed of their rights in connection with their detention; (ii) prompt access to a lawyer during any interrogation by the police, or, if necessary, to legal aid, and being able to consult privately therewith; (iii) access to an independent medical examination, preferably by a doctor of their choice, and access to treatment on request; (iv) being able to notify a relative of their detention; and (v) assistance by an interpreter, if necessary. In that regard, please comment on allegations that during a 2014 security operation in Musanze and Rubavu, security forces reportedly detained persons incommunicado without access to legal representation for up to two months;

(c) Ensure the systematic registration of all detainees and accurate record-keeping of all periods of pretrial detention;

(d) Monitor compliance by police and other security officials with these legal safeguards. In this regard, please provide information on any disciplinary or other action taken against law enforcement officials for refusing to provide prompt access to the fundamental legal safeguards mentioned above and for failure to complete the registers properly.

5. With reference to the Committee's previous concluding observations (para. 24), and taking into account the information provided by the State party in its report regarding the National Commission for Human Rights,[9] please provide information on:

(a) The measures taken to strengthen the independence of the committee in charge of selecting commissioners for the National Commission for Human Rights;[10]

(b) Annual statistical data since 2012 on the number of cases of torture and ill-treatment investigated by the Commission on its own initiative or upon request, and the results of such investigations;

(c) The measures taken to ensure that State authorities implement the recommendations of the Commission.[11] Please provide examples of recommendations made by the Commission relating to the prevention and investigation of torture and ill-treatment, and relating to the prosecution of those responsible, that have been implemented by the authorities during the reporting period;

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[5] See CAT/C/RWA/2, para. 79.

[6] See CCPR/C/RWA/CO/4, para. 6. See also E/C.12/RWA/CO/2-4, para. 6.

[7] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

[8] See CAT/C/RWA/2, paras. 15, 41 and 105-109.

[9] Ibid., paras. 24, 111 and 156-161.

[10] See CCPR/C/RWA/CO/4, para. 9; E/C.12/RWA/CO/2-4, para. 7; and A/HRC/26/29/Add.2, para. 76.

[11] See CAT/C/RWA/2, para. 111.

(d) The measures taken to ensure that the Commission has sufficient resources to fully comply with its mandate and to enhance its role in protecting human rights.[12]

6. Recalling the Committee's previous concluding observations (para. 16), and taking into account the information provided by the State party in its report,[13] please provide further information on the measures taken to combat gender-based violence, including domestic violence, in particular:

(a) Annual statistical data from 2012 onwards — disaggregated by the type of crime and by the victim's sex, age range and urban/rural location[14] — on the number of complaints lodged or allegations registered by the police or through the gender-based and domestic violence helpline, the number of such complaints that have been investigated, how many of those complaints have led to prosecutions and convictions and the punishment imposed in those cases;

(b) Steps taken to amend article 36 of Law No. 59/2008 on the prevention and punishment of gender-based violence, which criminalizes the victim's refusal to testify about the violence;[15]

(c) A brief indication of the means of redress provided to victims of domestic and other gender-based violence, including the annual percentage of cases in which compensation has been awarded;[16]

(d) Measures taken to protect women and children from violence, including the number of protection orders requested and granted during the reporting period[17] and an update on the steps taken to ensure the availability of a sufficient number of Isange one-stop centres in all parts of the country,[18] as indicated in the State party's report.[19]

7. With regard to the crime of trafficking in persons, please provide:

(a) Annual statistical data since 2012, disaggregated on the basis of the gender, age range, country of origin and employment sector of the victim, on the number of victims of trafficking and the number of complaints lodged and reports regarding this crime registered by the police, as well as information on prosecutions and convictions, and on sanctions imposed on perpetrators;

(b) Information on whether the State party has opened investigations into the allegations that security and military officials were complicit in the sex trafficking of Congolese refugees and in facilitating the recruitment of Burundian refugees into armed groups. Please also inform the Committee about the outcome of those investigations, if any;

(c) Information on steps taken to improve the identification of victims of trafficking among vulnerable populations, in particular among refugees, street children and children in domestic servitude;[20]

(d) Updates on redress and assistance provided to victims of trafficking, including long-term protection services, the procedure for obtaining compensation, the number of cases in which compensation was awarded and the average amount of compensation granted.

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[12] See CCPR/C/RWA/CO/4, para. 9; and A/HRC/26/29/Add.2, para. 76.
[13] See CAT/C/RWA/2, paras. 32, 87 and 126-134.
[14] See E/C.12/RWA/CO/2-4, para. 10.
[15] See CCPR/C/RWA/CO/4, para. 16 (a).
[16] See E/C.12/RWA/CO/2-4, para. 10; CCPR/C/RWA/CO/4, para. 16 (b); and CRC/C/RWA/CO/3-4, paras. 29 and 30.
[17] See A/HRC/WG.6/10/RWA/3, para. 6.
[18] See A/HRC/WG.6/23/RWA/2, para. 29.
[19] See CAT/C/RWA/2, para. 130.
[20] See E/C.12/RWA/CO/2-4, para. 20; CMW/C/RWA/CO/1, para. 19; and CRC/C/OPSC/RWA/CO/1, paras. 20 and 21.

Article 3

8. With reference to the Committee's previous concluding observations (para. 18) and taking into account the information provided by the State party in its report,[21] please provide information on:

(a) Measures taken to ensure that all asylum seekers, without any restriction relating to nationality or to the profile of the claim, have prompt access to the asylum determination procedure, and to strengthen the capacity of the National Refugee Status Determination Committee to adjudicate on asylum claims within the legal time frame;[22]

(b) Whether there is an effective judicial remedy to challenge the deportation of asylum applicants and other undocumented immigrants with automatic suspensive effect of the deportation;[23]

(c) Whether asylum seekers and persons subject to extradition have access to independent legal assistance free of charge, including during the appeals process.[24]

9. Please provide statistical data from 2012 onwards, disaggregated by year and country of origin, on:

(a) The number of asylum requests registered during the reporting period;

(b) The number of requests for asylum or refugee status or other forms of humanitarian protection granted during the reporting period;

(c) The number of torture victims identified among asylum seekers, the procedures applied to undertake such identification and the measures taken to help those identified as torture victims;

(d) The number of persons extradited, expelled or returned and the countries to which they were removed.

Articles 5-9

10. Please indicate whether the State party has rejected, for any reason, the request of a State for the extradition of an individual suspected of having committed torture, and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

11. With reference to the Committee's previous concluding observations (para. 21) and the information provided in the State party's report,[25] please clarify whether law enforcement personnel at all levels, State security entities, prison staff,[26] immigration officials, medical personnel dealing with detainees or prisoners, forensic doctors and any other person who may be involved in the custody, interrogation or treatment of persons deprived of their liberty receive training on:

(a) The provisions of the Convention;

(b) Non-coercive investigatory and restraint techniques, as well as the principle of the use of force as a last resort;

(c) Guidelines for the detection of signs of torture and ill-treatment, reflecting the standards set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol);

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[21] See CAT/C/RWA/2, paras. 64-70.
[22] See A/HRC/WG.6/23/RWA/2, para. 85.
[23] Ibid., para. 80.
[24] See CCPR/C/RWA/CO/4, para. 30; and A/HRC/WG.6/23/RWA/2, para. 39.
[25] See CAT/C/RWA/2, paras. 57 and 84.
[26] See A/HRC/WG.6/23/RWA/3, para. 20.

(d) Identification of victims of trafficking, torture and sexual violence among asylum seekers and refugees.

12. Please indicate briefly whether the training is regular and compulsory, the overall size of the target group and the percentage of those trained during the period under review.

13. Please outline any measures taken to develop and implement a methodology to monitor and assess the effectiveness of those training programmes in reducing the incidence of torture and ill-treatment.

Article 11

14. With reference to the Committee's previous concluding observations (para. 11) and the information provided in the State party's report,[27] please clarify whether the State party has undertaken any investigations into the alleged use of "unofficial detention centres", and the outcome of those investigations. In that regard, please comment on reports that cases of unlawful and incommunicado detention have continued to occur and indicate the measures taken to end, effectively, arbitrary and secret detentions by security forces.

15. With reference to the Committee's previous concluding observations (para. 19) and the information provided in the State party's report addressing conditions of detention, please provide the following updated information:

(a) Annual statistical data since 2012, disaggregated by place of detention, including police and military detention centres, on the capacity and occupancy rates of all places of detention, indicating the number of pretrial detainees at each place of detention and the average and maximum duration of pretrial detention;

(b) Measures taken to improve the conditions in police and military detention centres with regard to hygiene, access to health care and food;

(c) Information on the efficacy of the measures in place to ensure the prompt release of prisoners who have completed their sentences;

(d) Progress made to separate pretrial detainees from convicted prisoners, and to ensure that mothers detained with their babies are placed in more appropriate settings;

(e) Information on the steps taken to enhance the use of non-custodial measures as an alternative to imprisonment.

16. With reference to the Committee's previous concluding observations (para. 13) and the information provided in the State party's report,[28] please provide annual data since 2012 of the number of visits to places of detention conducted by the National Commission for Human Rights, the Office of the Ombudsman and non-governmental organizations, disaggregated by location. Please also indicate the timeline for establishing the national preventive mechanism prescribed in the Optional Protocol to the Convention.[29]

17. With reference to the Committee's previous concluding observations (para. 20) and the information provided in the State party's report,[30] please indicate the measures taken to promote the use of alternative measures to detention for children in conflict with the law, and ensure that children below the age of 18 are only deprived of their liberty as a measure of last resort, when other alternative measures have been exhausted and for the shortest possible time. Please also indicate the steps taken to ensure that juveniles in police custody aged 12, 13 or 14 are detained separately from adults.[31]

18. Please provide annual statistical data since 2012, disaggregated by place of deprivation of liberty and the victims' sex and age range, on the number of deaths in custody, indicating the number of persons injured or killed as a result of violence or the excessive use of restrictive measures inside places of detention or in the prisoner

[27] See CAT/C/RWA/2, paras. 44, 45 and 101-104.
[28] Ibid., paras. 56 and 107.
[29] Ibid., para. 8.
[30] Ibid., paras. 44 and 151-154.
[31] Ibid., para. 151.

transportation system, indicating whether the perpetrator was a State official or a fellow detainee. Please provide detailed information on the outcome of investigations into such deaths or injuries, including the penalties imposed on the perpetrators of torture, ill-treatment or negligence who caused the death or the injuries.

19. Please indicate whether there are any due process rights with regard to the imposition of disciplinary sanctions in places of detention. With regard to solitary confinement, please provide information on the regime applicable, including the maximum and average duration, whether it could apply to juveniles and persons with disabilities, and whether or not the duration is recorded in each case.[32]

20. With reference to the information provided in the State party's report,[33] please provide information on the so-called rehabilitation (or transit) centres, indicating the number of facilities of this kind that are operating, the admission procedure and the regime applicable, the number of children and adults that are subject to this type of administrative detention, the reasons for their detention, the means of challenging such detention and any safeguards put in place for such persons.[34] Please comment on reports about the alleged beatings and ill-treatment of detained street vendors, sex workers and beggars, at Gikondo Transit Center, by the police or by other detainees on the order or with the approval of the police, and indicate whether the State party has investigated these allegations. Please also indicate whether the State party has taken any steps to provide alternatives to the institutionalization of children in street situations, including their placement in family-based settings.[35]

21. Please clarify whether foreigners subjected to deportation orders, including children, can be detained in correctional facilities with other prisoners,[36] and report on the average duration and conditions of their detention.[37] Please also report on measures taken to provide for non-custodial alternatives to such detention and to ensure that detention is used only as a measure of last resort and for as short as possible a period of time.

Article 12

22. Please provide annual statistical data from 2012 onwards, disaggregated by crime and the age range and sex of the victim, on: (a) the number of complaints filed and police reports initiated relating to torture, as well as the number of such complaints and reports related to ill-treatment, attempted commission of, or complicity or participation in, such acts, and killings or excessive use of force allegedly committed by or with the acquiescence or consent of law enforcement, security, military or prison personnel; (b) the number of investigations initiated as a result of those complaints and by which authority; (c) the number of those complaints that were dismissed; (d) the number of those complaints that led to prosecutions; (e) the number of those complaints that led to convictions, and the penal and disciplinary sanctions that were applied to public officials who were found guilty, including the length of prison sentences; (f) the number of ex officio investigations into cases of torture and ill-treatment and the number of ex officio prosecutions, per year; and (g) the number of cases of torture or ill-treatment reported by doctors following medical examinations of detainees, and the outcome of those cases.

23. With reference to the Committee's previous concluding observations (para. 14) and the information provided in the State party's report,[38] please provide information on the outcome of the criminal proceedings and on the sentences meted out regarding the alleged cases of torture and ill-treatment during interrogations by Rwanda military intelligence in the Kami and Kinyinga camps. Please comment on reports that the use of torture and ill-treatment by the military and the police continued between 2011 and 2014 in the Kami military camp and in other unofficial places of detention, such as the so-called "Chez

[32] See A/HRC/WG.6/23/RWA/3, para. 4.
[33] See CAT/C/RWA/2, paras. 153 and 154.
[34] See CRC/C/RWA/CO/3-4, paras. 62 and 63; and A/HRC/WG.6/23/RWA/3, para. 19.
[35] See CCPR/C/RWA/CO/4, para. 28.
[36] See CMW/C/RWA/CO/1, paras. 23 and 24.
[37] Ibid.
[38] See CAT/C/RWA/2, para. 98.

Gacinya" in Kigali.[39] Please explain whether these allegations have been investigated and the outcome of the proceedings, if any.

24. With reference to the Committee's previous concluding observations (para. 14) and the information provided in the State party's report,[40] please provide updated information on the investigations, prosecutions, convictions and punishments related to reported cases of enforced disappearance and extrajudicial execution, including any possible complicity in those acts by members of the police and the security forces. Please also provide information on the outcome of the prosecutions against members of the former Rwandese Armed Forces for the abduction of Emmanuel Hakizimana,[41] as well as the outcome of the investigations into the disappearances of other relevant political figures, such as André Kagwa Rwisereka, mentioned in the previous concluding observations, and Jean Damascène Munyeshyaka, as well as regarding the executions of Denis Ntare Semadwinga and of Dr. Emmanuel Gasakure. Please also indicate the measures taken to prevent disappearances and executions, to establish the truth of the circumstances and the fate of the victims and to provide full reparation to victims' families.[42]

25. With reference to the Committee's previous concluding observations (para. 15) and the information provided in the State party's report,[43] please provide information on the appointment procedure for judges and clarify whether judicial appointments are made in accordance with objective criteria of competence and independence.[44] Please also provide information on the measures adopted to prevent undue interference in the administration of justice.[45] Please also indicate the measures taken to ensure that military courts are prevented from exercising jurisdiction over civilians.[46]

Article 13

26. Please provide information on the measures in place to ensure the confidentiality and independence of the mechanism for filing complaints of torture and ill-treatment, particularly when the victims are deprived of their liberty.

27. With reference to the information provided in the State party's report regarding the existing measures for witness protection,[47] please explain to what extent these measures protect victims and witnesses of torture and ill-treatment from reprisals. Please also provide annual statistical data, disaggregated by the gender and age range of the complainant, on: (a) the number of complaints received pertaining to threats or reprisals against victims or witnesses of torture and ill-treatment; (b) the number of investigations or inquiries conducted into those complaints; and (c) the outcome of those investigations.

Article 14

28. With reference to the Committee's previous concluding observations (para. 22) and the information provided in the State party's report,[48] please indicate if the State party is considering removing the condition based on "recognition of offence by the perpetrator", so that victims of torture may seek and obtain prompt, fair and adequate compensation, even in cases where a perpetrator is not identified. Please also indicate the measures taken to ensure that claims for redress for torture are not subject to a statute of limitations.

29. Please provide statistical data on the redress and compensation measures granted each year, including the means of rehabilitation, ordered by the courts and actually provided to victims of torture or ill-treatment and their families since the examination of the previous periodic report, in 2012. That information should include the number of:

[39] See A/HRC/WG.6/23/RWA/3, para. 18.
[40] See CAT/C/RWA/2, paras. 114-123.
[41] See CAT/C/RWA/2, para. 121.
[42] See CCPR/C/RWA/CO/4, para. 22.
[43] See CAT/C/RWA/2, paras. 124 and 125.
[44] See CCPR/C/RWA/CO/4, para. 34 (b).
[45] See A/HRC/WG.6/23/RWA/3, para. 22; and A/HRC/WG.6/23/RWA/2, para. 35.
[46] See CCPR/C/RWA/CO/4, para. 34 (d).
[47] See CAT/C/RWA/2, para. 55.
[48] Ibid., paras. 90, 91 and 155.

(a) applications lodged for State compensation for torture and abuse; (b) applications time-barred due to courts' inaction; and (c) applications granted, and the range of awards in successful cases.

Article 15

30. In the light of the Committee's previous concluding observations (para. 23) and the information provided in the State party's report,[49] please provide information on:

(a) The measures taken to ensure that State officials always bear the burden of proof for establishing that a confession has not been produced through torture or ill-treatment;

(b) Statistical data since 2012 on the number of cases in which detainees have alleged that their confessions were extracted through torture, and the number of such complaints that have led to investigations, and their outcomes, including punishments meted out to convicted perpetrators, if any, and reparations and compensation offered to victims;

(c) Whether the State party has reviewed any criminal convictions made solely on the basis of confessions, in order to identify instances of wrongful conviction, in particular those related to individuals charged with threatening national security and detained at the Kami or Mukamira military camps or in "safehouses" in Kigali, as mentioned in the previous concluding observations. Please provide details of those cases, if any.

Article 16

31. In relation to the information provided in the State party's report,[50] please mention the legislative measures taken to explicitly prohibit corporal punishment of children in all settings,[51] as established in the National Integrated Child Rights Policy. Please also indicate whether any measures have been taken to encourage non-violent forms of discipline and to raise awareness about the harmful effects of corporal punishment.

32. With reference to the Committee's previous concluding observations (para. 17) and the information provided in the State party's report,[52] please report on the measures taken to provide effective protection against intimidation, threats and arbitrary detention of human rights defenders and journalists reporting on human rights-related issues and issues of public interest.[53] Please provide information from 2012 onwards on the number of complaints and the outcome of the investigations of those complaints, and the convictions and penalties imposed, in cases of assault, threats, harassment and murder believed to be linked to the victims' activities as journalists or reporters of human rights violations, for example with regard to the murder in July 2013 of Gustave Sharangabo Makonene, coordinator of Transparency International Rwanda's Advocacy and Legal Advice Centre.[54]

33. Please clarify the criteria used for the application of the crimes of "endangering state security", "inciting public disorder" and "separatism", and indicate the number of human rights defenders, opposition politicians and journalists who have been deprived of their liberty since 2012 on the grounds of the above-mentioned crimes, disaggregated by year and by type of offence.[55]

34. Taking into account that the 2012 amendment to the Penal Code expanded the exceptions giving rise to permissible abortion, please explain the measures taken to ensure that women qualifying under these exceptions can have prompt and effective access to legal and safe abortion. In this regard, please comment on reports indicating that the

[49] Ibid., para. 92.
[50] Ibid., paras. 12, 16, 135 and 136.
[51] See A/HRC/17/4, para. 78 (9).
[52] See CAT/C/LKA/5, paras. 137-145.
[53] See A/HRC/WG.6/23/RWA/3, paras. 32, 33, 36, 38 and 41.
[54] See A/HRC/26/29/Add.2, para. 72.
[55] See A/HRC/WG.6/23/RWA/3, para. 23; and CCPR/C/RWA/CO/4, paras. 39 and 40.

requirements of obtaining a court order certifying that a woman has become pregnant as a result of rape, incest or forced marriage, or of obtaining the permission of two doctors in the case of an abortion for reasons of health, create barriers that lead pregnant women to seek clandestine abortion services that put their lives and health at risk.

Other issues

35. Please indicate whether the State party is considering accepting the competence of the Committee under article 22 of the Convention.